



Don Ryan/AP Photo
Oregon Attorney General Ellen Rosenblum, shown here in 2016, told the U.S. Supreme Court that Oregon’s criminal justice system would be ‘overwhelmed’ if the nation’s highest court rules that nonunanimous jury verdicts are unconstitutional.

Oregon defends previous nonunanimous jury verdicts

AG cites risk of new trials

By **ANDREW SELSKY**
Associated Press

SALEM — Oregon’s criminal justice system would be “overwhelmed” if the U.S. Supreme Court rules in an upcoming case that nonunanimous jury verdicts are unconstitutional, the state’s attorney general has told the court.

Attorney General Ellen Rosenblum said in an amicus brief on Friday that if the Supreme Court finds nonunanimous juries unconstitutional, it could invalidate hundreds or even thousands of convictions in Oregon.

Oregon is the only state allowing 11-1 or 10-2 jury verdicts in criminal trials, except first-degree murder convictions.

Critics say Rosenblum is defending a system that should be abandoned, as voters in Louisiana, the only other state that permitted nonunanimous verdicts, did in 2018.

“The state’s brief presents a parade of horrors that may or may not come to pass. However, that is not a reason to continue a practice rooted in racial and ethnic discrimination,” said Marc Brown, a public defender in Oregon whose clients include ones appealing nonunanimous guilty verdicts.

The decision by Louisiana voters was not retroactive, and took effect in January. The Supreme Court this fall will hear a case of Evangelisto Ramos, a Louisiana man convicted by a nonunanimous jury in 2016 of second-degree murder of a woman in New Orleans. Ramos is serving a life sentence with no chance of parole.

Michael Kron, special counsel to Oregon’s attorney general, said that if the Supreme Court rules in favor of Ramos, it would be reversing its 1972 ruling that the U.S. Constitution does not bar states from allowing nonunanimous verdicts.

Rosenblum told the Supreme Court that if it overturns that ruling and decides that nonunanimous juries are unconstitutional, Oregon’s criminal justice system will be glutted.

“Such a ruling would automatically require retrial in many hundreds, if not thousands, of cases on direct review,” Rosenblum told the court.

Even convictions that were unanimous could be called into question, because a judge instructing jurors that they could reach a nonunanimous decision could be grounds for an appeal.

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Marc Brown | public defender in Oregon

“In many cases, particularly the older cases, retrial will likely be impossible because of the impact that the passage of time will have on the prosecution’s case as witnesses disappear, memories fade, and evidence is lost,” the attorney general wrote.

Several Oregon lawmakers recently sponsored a resolution calling for a ballot measure to repeal an amendment to the state constitution allowing nonunanimous verdicts. The resolution unanimously passed the state House, but died in Senate as it dealt with a walkout by Republicans in the final days of the legislative session.

The decision by Oregon voters in 1934 to allow split-jury verdicts was fueled by white supremacy and anti-minority sentiment. One newspaper said immigrants from southern and eastern Europe had made the requirement for unanimous verdicts “unwieldy and unsatisfactory.”

Rosenblum said she supports a repeal, noting the

jury rule’s links to racism and anti-Semitism. But she said such a change should be for cases “going forward,” not retroactively.

Aliza Kaplan, a professor at Portland’s Lewis & Clark Law School who has campaigned to eliminate nonunanimous jury verdicts, said only dozens — not hundreds — of cases would be affected by a Supreme Court ruling in favor of Ramos.

“The attorney general has an opportunity to be on the correct side of history and champion getting rid of nonunanimous juries,” Kaplan said. “Instead, she chooses to support a policy that we all know, and that she acknowledges, comes from our racist history.”

Brown, the public defender, said he doubts a Supreme Court ruling would create a crisis for the state’s judicial system. Oregon’s appeals courts would determine its retroactive application “by applying well-known legal standards.”

“Our courts are certainly up to that task,” he said.

Grocery workers vote to approve strike if wage negotiations collapse

By **REBECCA ELLIS**
Oregon Public Broadcasting

Grocery workers from across Oregon and southwest Washington state have voted to approve a strike if negotiations with four of the region’s largest supermarket chains deadlock.

The United Food and Commercial Workers Local 555, a union representing more than 20,000 grocery workers in the region, has been pushing Albertsons, Fred Meyer, QFC and Safeway to increase workers’ wages as negotiators hammer out new contracts for members.

After tallying up the final batch of votes from union members in Baker City over the weekend, Kelley McAllister, communications director for the union, said it’s clear members across the region “overwhelmingly” support calling a strike if future negotiations with employers fall through. The next meeting between the two parties is Thursday.

“It’s possible we reach a tentative agreement,” McAllister said. “And it’s possible they throw the stuff on the table and say, ‘Our economic conditions are not their problem,’ and they walk away. If they do that, that’s not good. That feels to me like asking for a strike.”

McAllister added it’s also possible no resolution



Grocery workers are in contract negotiations with Fred Meyer and other stores.

is reached and the negotiations spill over into future meetings.

Jeffery Temple, director of corporate affairs for Fred Meyer Stores, Inc., said the company will come to the table with offers of larger wage increases than those approved in the last two contracts, as well as a pension and benefits package that allows most employees to pay \$30 a month or less for health care. The company hopes the bargaining items, which Temple calls “pretty aggressive,” will avert picketing outside Fred Meyer stores.

“A strike doesn’t help anybody, and it certainly doesn’t help the negotiation process,” Temple said. “We’re really just focused on avoiding a strike.”

What a strike would look like remains up in the air. McAllister said nothing’s been ruled out: All of the union’s 20,000 grocery workers could walk out at the same time, leaving some of the region’s big-

gest supermarkets virtually unstaffed; the strike might start with suburban stores and then move into the cities; or they might choose to target just one employer.

“I think that will depend where our bargaining leads us on Thursday,” McAllister said.

To avoid a strike, McAllister said the bargaining team would need to see an offer of a “notable” wage increase on the table. Union negotiators are also asking for a big bump in pay for workers in the bakery, deli and cheese departments, positions they believe are traditionally filled by females.

A new study, commissioned by the union, found a median wage gap of \$3.70 per hour between men and women working under the grocery contract at Portland-area Fred Meyer stores. The study’s author attributed the wage gap to the low-paying positions for which women were hired.

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